

Serial No. 10/020,735 - Craig A. Shoemaker et al.

REMARKS

Claims 5 and 6 have been amended. Claim 5 has been amended to clarify punctuation issues. Claim 6 has been amended to correct its dependency on claim 5, which it further restricts. This claim was modeled in structure on claim 2 but was to be directed to vaccine claims.

ELECTION WITH TRAVERSE

The Restriction Requirement of September 16, 2003 has been received and carefully considered. In response thereto, Applicants elect with traverse Group I (claims 1-9) drawn to an attenuated strain of bacteria, classified in class 424, subclass 234.1.

The premise upon which the Examiner has based the restriction requirement is seen to be faulty in that the claim that "bacteria can be used in assays such as the propagation of bacterial strains and immunoassays" is very speculative and the Examiner presents no rationale why one would want to propagate the strain itself. The Examiner has also presented no basis for expecting such an immunoassay to be operable.

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ELECTION OF SPECIES

The Examiner makes an election requirement under 35 U.S.C. 121 to elect a single disclosed bacterial strain. To be responsive to this request, Applicants elect the strain NRRL B-30303 with traverse. Claims 1-3, 5-7 and 9-15 correspond to this elected strain, though. Claims 10-15 are in non-elected Group II. This strain is recited directly in claims 2, 3, 6 and 7 as presently amended and is encompassed within the scope of claims 1-3, 5-7 and 9-15. Applicants respectfully traverses this requirement because no evidence has been shown that the search of all of the claimed strains and methods of use is not coextensive.

With the instant amendment, and the response to the restriction requirement, and the subsequent required election of species being made, it is now believed that the case is ready for review. Should the Examiner desire a telephonic interview for the purpose of resolving any perceived issues, Applicants would be most willing to comply.

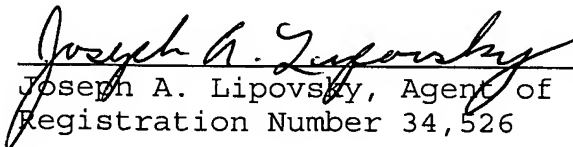
Respectfully submitted,

Peoria, IL

309/681-6514

309/681-6688 (FAX)

202/720-2421

  
Joseph A. Lipovsky, Agent of Record  
Registration Number 34,526